

**ASSEMBLY BILL**

**No. 985**

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**Introduced by Assembly Member Saldana**

February 22, 2007

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An act to amend Sections 21168.6 and 25531 of the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

AB 985, as introduced, Saldana. Environment: judicial review.

The California Environmental Quality Act provides that in an action or proceeding against the Public Utilities Commission pursuant to the act the writ of mandate may only be filed with the Supreme Court of California. The Warren-Alquist State Energy Resources Conservation and Development Act provides that judicial review of decisions of the State Energy Resources Conservation and Development Commission on applications for certification of a power facility and related facility are subject to judicial review by the Supreme Court of California.

This bill would, additionally, provide jurisdiction in these instances to a court of appeal. The bill would specify the venue in the Court of Appeal for a petition or judicial review.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 21168.6 of the Public Resources Code
- 2 is amended to read:
- 3 21168.6. In any action or proceeding under Sections 21168 or
- 4 21168.5 against the Public Utilities Commission the writ of

1 mandate shall lie only from the Supreme Court *or a court of appeal*  
2 ~~to such~~ the commission. *The venue of a petition for a writ of*  
3 *mandate filed in the Court of Appeal pursuant to this section shall*  
4 *be in the judicial district in which the petitioner resides. If the*  
5 *petitioner is a business, the venue shall be the judicial district in*  
6 *which the petitioner has its principle place of business in*  
7 *California.*

8 SEC. 2. Section 25531 of the Public Resources Code is  
9 amended to read:

10 25531. (a) The decisions of the commission on ~~any an~~  
11 application for certification of a site and related facility are subject  
12 to judicial review by the Supreme Court of *California or a court*  
13 *of appeal. The venue of a petition for a writ of mandate filed in*  
14 *the Court of Appeal shall be in the judicial district in which the*  
15 *petitioner resides. If the petitioner is a business, the venue shall*  
16 *be the judicial district in which the petitioner has its principle*  
17 *place of business in California.*

18 (b) ~~No new~~ New or additional evidence ~~may~~ shall not be  
19 introduced upon review and the cause shall be heard on the record  
20 of the commission as certified to by it. The review shall not be  
21 extended further than to determine whether the commission has  
22 regularly pursued its authority, including a determination of  
23 whether the order or decision under review violates any right of  
24 the petitioner under the United States Constitution or the California  
25 Constitution. The findings and conclusions of the commission on  
26 questions of fact are final and are not subject to review, except as  
27 provided in this article. These questions of fact shall include  
28 ultimate facts and the findings and conclusions of the commission.  
29 A report prepared by, or an approval of, the commission pursuant  
30 to Section 25510, 25514, 25516, or 25516.5, or subdivision (b) of  
31 Section 25520.5, shall not constitute a decision of the commission  
32 subject to judicial review.

33 (c) Subject to the right of judicial review of decisions of the  
34 commission, ~~no a court in this state has~~ *does not have* jurisdiction  
35 to hear or determine ~~any a~~ case or controversy concerning ~~any a~~  
36 matter ~~which~~ *that* was, or could have been, determined in a  
37 proceeding before the commission, or to stop or delay the  
38 construction or operation of ~~any a~~ thermal powerplant except to  
39 enforce compliance with the provisions of a decision of the  
40 commission.

(d) Notwithstanding Section 1250.370 of the Code of Civil Procedure:

(1) If the commission requires, pursuant to subdivision (a) of Section 25528, as a condition of certification of any site and related facility, that the applicant acquire development rights, that requirement conclusively establishes the matters referred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in any eminent domain proceeding brought by the applicant to acquire the development rights.

(2) If the commission certifies ~~any~~ a site and related facility, that certification conclusively establishes the matters referred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in ~~any~~ an eminent domain proceeding brought to acquire the site and related facility.

(e) ~~No~~A decision of the commission pursuant to Section 25516, 25522, or 25523 shall *not* be found to mandate a specific supply plan for ~~any~~ an utility as prohibited by Section 25323.